UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

MASHANTUCKET PEQUOT GAMING

ENTERPRISE d/b/a FOXWOODS

RESORT CASINO

and

CASE NO. 34-CA-12081

INTERNATIONAL UNION, UAW,

AFL-CIO

JOINT MOTION TO VACATE AND SET ASIDE THE DECISION AND ORDER OF THE BOARD

The Mashantucket Pequot Tribal Nation (the "Nation") and the Mashantucket Pequot Gaming Enterprise (the "Gaming Enterprise"), an arm of the government of the Nation and a Tribal Employer within the meaning of the Mashantucket Pequot Labor Relations Law, Title 32 Mashantucket Pequot Tribal Law, and the International Union, UAW, AFL-CIO ("UAW" or the "Union"), pursuant to 29 C.F.R. § 102.49, jointly submit this Motion seeking to have the Board's decision and order in this case, dated September 30, 2008, vacated and set aside. For the reasons set forth below, the Motion to Vacate and Set Aside the Decision and Order of the Board should be granted.

By certification dated June 30, 2008, the National Labor Relations Board ("the Board") certified the UAW as the collective bargaining representative of a unit including:

full-time and regular part-time licensed dealers employed by the Employer at its Connecticut Casino, including poker dealers, table game dealers, and dual rate dealers" but excluding "all other employees, office clerical employees, and guards, professional employees and supervisors as defined in the [National Labor Relations] Act".

A number of legal issues compelled the Gaming Enterprise to challenge its duty to bargain pursuant to the certification. As a result, the UAW filed the unfair labor practice ("ULP") charge in Case No. 34-CA-12081, asserting a refusal to bargain on the part of the Gaming Enterprise. By Order dated September 30, 2008, a two-Member Panel of the Board issued summary judgment against the Gaming Enterprise. By petition filed October 2, 2008, the Gaming Enterprise sought to vacate the Board's Order in the Court of Appeals for the Second Circuit.

During the time-period described above, the Gaming Enterprise and UAW entered into discussions which led the parties to engage in collective-bargaining negotiations. After fourteen (14) months of good faith bargaining, the parties concluded a collective-bargaining agreement effective January 27, 2010. During the negotiations resulting in the collective-bargaining agreement, the Union agreed to withdraw all unfair labor practice charges pre-dating the contract, including the instant matter.

Accordingly, at this point in time, notwithstanding the various and complex legal issues which compelled the parties to take their earlier positions:

- 1. The Employer has recognized the Union as the exclusive bargaining representative of the bargaining unit employees;
- 2. The Employer and Union have engaged in extensive good faith collective bargaining negotiations; and

3. The Employer and the Union have executed a collective-bargaining agreement

resulting from those negotiations.

The parties submit that by so proceeding, the rights and interests of all parties were

protected, and the policy objectives underlying the September 30, 2008 Order have been

satisfied. Moreover, the bargaining relationship between the Employer and the Union will be

advanced by the withdrawal of the Union's ULP charge in this matter consistent with the

agreement of the parties. See, e.g., Conntech Division, SFX Corp., 337 NLRB 439 (2002); The

Park Associates, Inc., 337 NLRB 643 (2002). The parties therefore respectfully request that the

Board vacate its September 30, 2008 Order; and, that the Complaint and underlying ULP charge

in Case No. 34-CA-12081 be withdrawn and/or dismissed with prejudice.

Dated: Mashantucket, CT April 22, 2010

Respectfully submitted,

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GAMING ENTERPRISE d/b/a FOXWOODS

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